

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Kevin Andrew Belt,

Plaintiff,

v.

Crocs, Inc.; Hey Dude Shoes,

Defendants.

Case No. 2:24-cv-00582-APG-DJA

Order

Before the Court is pro se Plaintiff Kevin Andrew Belt's motion to amend his complaint (ECF No. 40) and motion to file a supplemental pleading (ECF No. 41). However, Plaintiff has filed his motions after the deadline to amend pleading and add parties has passed. Additionally, Plaintiff has attached two different proposed amended complaints to his motions. The Court denies Plaintiff's motions for these reasons.

First, Plaintiff has sought to amend his complaint after the deadline to do so has passed. (ECF No. 28) (stipulated discovery plan setting the deadline to amend pleadings and add parties for January 9, 2025). When the deadline for amending pleadings under a scheduling order has passed, the Court's analysis must start with Federal Rule of Civil Procedure 16(b). *See Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2000); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992). Unlike Federal Rule of Civil Procedure 15(a)'s "liberal amendment policy[,] . . . Rule 16(b)'s 'good cause' standard primarily considers the diligence of the party seeking the amendment . . . [i]f that party was not diligent, the inquiry should end." *In re W. States Wholesale Nat. Gas Antitrust Litig.*, 715 F.3d 716, 737 (9th Cir. 2013), *aff'd sub nom. Oneok, Inc. v. Learjet, Inc.*, 135 S. Ct. 1591 (2015) (internal quotations and citations omitted); *see also Mammoth Recreations*, 975 F.2d at 609-10 (no good cause for amendment when movant knew of facts and theory from the beginning of the case and waited until four months after the deadline for amendments passed to move to amend).

1 Here, Plaintiff has not shown good cause for seeking to amend his complaint after the
2 deadline passed. In his motion to amend, he explains that he recently learned of a new provision
3 of law, 42 U.S.C. § 1981, under which he could bring his claims. He also seeks to add exhibits to
4 prove the amount of damages he is seeking. However, Plaintiff provides no explanation about
5 when he learned about 28 U.S.C. § 1981, how, why he did not learn of it earlier, or why he has
6 been diligent in bringing his specific claims under it. So, the Court cannot determine whether
7 Plaintiff has shown good cause or been diligent. Additionally, Plaintiff may update the amount of
8 damages he is seeking by supplementing his initial disclosures rather than amending his
9 complaint. *See* Fed. R. Civ. P. 26(a)(1)(iii); *see* Fed. R. Civ. P. 26(e). So, his need to amend his
10 damages does not constitute good cause. Additionally, in his motion to supplement, Plaintiff
11 seeks to add claims related to things that happened after he initiated this action, including his
12 termination. However, in his motion, Plaintiff does not explain when these things happened or
13 why he could not amend his complaint to include them before the deadline. Indeed, it appears
14 that Plaintiff alleges that he was terminated in November of 2024, before the deadline to amend
15 pleadings passed. So, Plaintiff has not shown good cause to extend the deadline to amend
16 pleadings or add parties and the Court denies his motions for that reason.

17 Second, Plaintiff has sought to both amend his complaint and supplement his complaint
18 and has filed two separate proposed amended complaints. However, a complaint must be
19 complete in itself. *See* Local Rule 15-1. The Court cannot piece together an amended complaint
20 from various sources. Instead, any amended complaint must include all of the claims and facts
21 that Plaintiff seeks to add. Because Plaintiff has attached two different proposed amended
22 complaints to his motions, instead of one complete proposed amended complaint, the Court
23 denies his motions.

24 Because the Court denies Plaintiff's motion to amend and motion to supplement for the
25 reasons outline above, it does not reach the merits of Plaintiff's motion to amend and motion to
26 supplement. Additionally, the Court notes that, in his reply Plaintiff asks that the Court appoint
27 him counsel. However, if Plaintiff seeks appointment of counsel, he must do so in a separate
28 motion that contains its own memorandum of points and authorities supporting his request. *See*

1 LR IC 2-2(b) (“[f]or each type of relief requested or purpose of the document, a separate
2 document must be filed and a separate event must be selected for that document”); *see* LR 7-2(a)
3 (explaining that motions “must be supported by a memorandum of points and authorities”).
4 Should Plaintiff seek to move for the Court to appoint him counsel, the Court informs Plaintiff
5 that a litigant does not have a constitutional right to appointed counsel. *See Storseth v. Spellman*,
6 654 F.2d 1349, 1353 (9th Cir. 1981). Under 28 U.S.C. § 1915(e)(1), “[t]he court may request an
7 attorney to represent any person unable to afford counsel.” However, the court will appoint
8 counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560
9 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional
10 circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the
11 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues
12 involved.’” *Id.* “Neither of these considerations is dispositive and instead must be viewed
13 together.” *Id.*

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15 **IT IS THEREFORE ORDERED** that Plaintiff’s motion to amend (ECF No. 40) and
16 motion to supplement (ECF No. 41) are **denied without prejudice**.

17 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to send Plaintiff
18 a copy of this order.

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20 DATED: May 6, 2025,

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23 DANIEL J. ALBREGTS
24 UNITED STATES MAGISTRATE JUDGE
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